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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
10437.0074.NPUS01

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on 03/01/07

Signature Barbi Sofia

BARBI SOFIA
Typed or printed Name

Application Number	Filed
10/708,422	March 2, 2004

First Named Inventor
David A. Trueba, et al.

Art Unit	Examiner
1625	Taylor V. Oh

Applicants requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ Applicant/inventor.

☐ Assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3. 73(b) is enclosed.
(Form PTO/SB/96)

☒ Attorney or agent of record.
Registration number 58,750

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

Rachel E. Greene
Signature

Rachel E. Greene
Typed or printed name

713.787-1595
Telephone number

March 1, 2007
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 2 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **David A. Trueba, *et al.***	§	Group Art Unit: 1625
Serial No.: 10/708,422	§	Examiner: Oh, Taylor V.
Filing Date: March 2, 2004	§	Atty. Dkt.: **10437.0074.NPUS01**
For: **CONTROL METHOD FOR PROCESS OF REMOVING PERMANGANATE REDUCING COMPOUNDS FROM METHANOL CARBONYLATION PROCESS**	§	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF
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3-1-07 (Date) Barbie Sofia (Signature)

INTRODUCTORY COMMENTS

The Applicant respectfully requests a Pre-Appeal Conference prior to filing an Appeal Brief in the above-captioned application. In accordance with the procedures set forth by the "New Pre-Appeal Brief Conference Pilot Program," this request is being filed concurrently with a Notice of Appeal. *See* Official Gazette, July 12, 2005.

Applicants believe that this response is being timely filed with a Notice of Appeal and One Month Extension of Time and that no additional fees are due in connection with this document. However, should any fees under 37 C.F.R. § 1.16 to 1.21 be required for any reason relating to this document, the Commissioner is authorized to deduct said fees from Deposit Account No. 08-3038/10437.0074.NPUS01.

REMARKS

These remarks are filed in response to an Advisory Action mailed on January 30, 2007. Claims 1-18 are pending and claims 7-18 are withdrawn. Claims 1-6 are rejected.

The Rejected Claims Are Not Obvious in View of Miura Because It Fails to Use Density Measurements to Control Its Processes

Claims 1-6 are rejected under 35 U.S.C. § 103(a) as being obvious in view of United States Patent No. 5,625,095 (*Miura*). In the Advisory Action, The Examiner asserts, "the 103 rejection does not have to cover every limitation of the claimed process, but it only have to cover the generic concept and process directly related to the claimed process, so that the skilled artisan in the art would expect the prior art process to have a motivation similar to the claimed process." However, the Examiner has read the pending claim limitation to density measurement so broadly and generically that the limitation has been effectively removed from the claims. The Examiner has not established that *Miura* uses density measurement or provided any analysis or references that show that one skilled in the art would have motivation to use density measurement in combination with the teachings of *Miura*.

In the Final Office Action, "it would have been obvious to the skilled artisan in the art to be motivated to monitor the density of the various components of the overhead in order to maximize the efficiency of the process since the density is directly proportional to the concentration." Nothing in *Miura* suggests using density or calculated concentration values to control its process, nor has the Examiner presented any other references to support using density measurements to control the separation of acetaldehyde from methyl iodide by distillation.

The Examiner identifies other elements of the pending claims including the adjustment of heating rate and water feed rate to the extraction, but does not indicate that *Miura* uses the results of any type of concentration measurement to adjust either of the parameters.

Also, *Miura* does not identify the problem solved by the claimed invention. *Miura* does not indicate that any process control system improvements are needed.

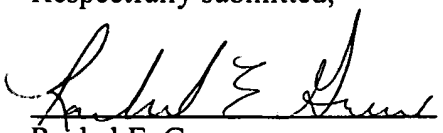
Miura does not describe a control system for its process, nor does it provide any suggestion that information about the composition of streams from its distillation column or extractor is used to control the operation or feed conditions of its distillation column or extractor. Furthermore, *Miura* does not mention density as a process parameter to be measured for any purpose. In fact, *Miura* describes a one-time, sophisticated, time-consuming component concentration measurement step that provides information about several components including impurities (see column 12, lines 20 to 44 and Table 1) that is not used to control any aspect of *Miura*'s process.

Instead, *Miura* provides a process recipe for separating acetaldehyde from methyl iodide. *Miura* describes the desirability of less than 400 ppm acetaldehyde in its reactor and suggests that the concentration is best maintained by removing acetaldehyde from the process streams circulated to the reactor by performing distillation or distillation followed by extraction. *Miura* demonstrates that acetaldehyde is removed by distillation by providing concentrations of various components before and after distillation (column 12, lines 20-44). *Miura* then discloses how a subsequent extraction of the distillate followed by a second distillation can further remove acetaldehyde from process streams that are recycled to the reactor (column 12, line 55 to column 13, line 34). *Miura* discloses concentrations of components before and after extraction to illustrate the extraction's effectiveness at providing a stream that has less than 400 ppm acetaldehyde that can be provided to the reactor. *Miura* does not disclose using density as a means of continuous process control.

In conclusion, *Miura* does not teach, show, or suggest measuring the density of the overhead and adjusting at least one process variable associated with the distillation apparatus in response to the measured density or a relative concentration calculated therefrom as recited in claim 1. Also, *Miura* does not teach, show, or suggest measuring the density of at least one of the overhead, the extract and the raffinate, and adjusting at least one process variable associated with the distillation apparatus or the extraction step in response to said measured density or a relative concentration calculated therefrom as recited in claim 2 and claims 3-6 dependent thereon.

For at least these reasons, the Examiner's rejection of the claims under 35 U.S.C. § 103(a) is improper.

Respectfully submitted,



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